



# Town of Carlisle

MASSACHUSETTS 01741

Office of  
*PLANNING BOARD*

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## MINUTES July 21, 1997

**CONTINUED PUBLIC HEARING: Petition of Kay Fairweather to remove trees within the right-of-way of School Street, a Scenic Road**

### **DISCUSSION:**

- Request for release of performance guarantee for Ice Pond Subdivision
- Request for discussion of mechanism to secure performance guarantee for completion of Tall Pines Subdivision prior to release of last 10 lots from covenant (Costello)
- Request for discussion of potential amendments to Overlook Drive Common Driveway Special Permit
- Notice of intent to remove property at 570 West Street from Chapter 61 classification
- Request for discussion of potential amendments to Aldershot Lane Common Driveway Special Permit
- Review of Planning Board's engineering services
- Review and discussion of future proposals to amend Zoning Bylaws to permit/encourage Open Space Residential Development
- Consideration of proposing amendments to Rules and Regulations

Chair Yanofsky called the meeting to order at 7:20 p.m.. Members Abend, Duscha, LaLiberte, Tice were present. Also present was Planning Administrator George Mansfield.

The minutes of the meeting of July 7, 1997 were reviewed and amended as follows: 1) Page 3, middle of 2nd paragraph, Abend offered to "follow a" set policy; 2) Page 3, LaLiberte was not recused from the Public Hearing; 3) Pages 4 and 7, references to the Rules and Regs. should specify "Subdivision" Rules and Regs.; 4) Page 8, Paragraph 6, detention basin could be placed "within the site"; 5) Page 10, last full paragraph, Yanofsky was not speaking for the entire board when stating she would not waive "Sec.II.F. of the Common Driveways" Rules and Regs. Abend moved to accept the minutes as amended. LaLiberte seconded and the minutes were approved 4-0-1 with Tice abstaining.

(board member Hengeveld arrived)

Regarding **budget** items George circulated the bills while explaining the deficit in the Hunters Run Project Review Fee (53G) account. The applicant submitted \$6,500 with his application. At the Public Hearing on April 14, 1997, the applicant agreed to pay an additional \$2,000 plus a 10% contingency to cover the review of the plans by a landscape architect. This was never paid. LaLiberte asked if this had been promised in writing, but no one was sure. Nancy Koerner, Town Treasurer, has paid this bill with money from the General Fund and expects reimbursement from the Planning Board. Tice said that the board must fulfill its obligation to the town. Pursuing Hebb for payment is another issue. Yanofsky suggested sending the bill along with a copy of the April 14th minutes to Hebb. LaLiberte suggested preparing a bill. Mansfield asked if it should be in the amount of \$2,000 or the exact amount of the Beals and Thomas bill. Yanofsky asked if the Town Treasurer could actually prepare a bill and request the money. She suggested billing for the total amount. Tice's memo to the Town Treasurer regarding this matter was reviewed. The word "oral" was removed from the third paragraph, first sentence and it was accepted with this amendment.

**CONTINUED PUBLIC HEARING: Petition of Kay Fairweather to remove trees within the right-of-way of School Street, a Scenic Road**

Present for the Public Hearing were Kathleen Coyle (Mosquito), Bruce and Michelle Sandler, Dennis LaBombard, Les Bishop, Jon Fay, Bill Costello, Brian Hebb, Duncan Grant and Ken Harte.

Yanofsky asked when this Public Hearing was advertised, and it was confirmed as June 20, 1997 and June 27, 1997.

As this was a joint hearing with the Tree Warden, Gary Davis came forward to join the Planning Board. Fairweather explained her request to cut down trees which belong to the town. Three trees need to be removed along the road to provide sun and remove roots from her garden. Three trees are near the driveway, and she would like these to be removed in order to widen her driveway and make it safer for entering and exiting onto School St. Her first priority is removing the trees near the garden.

Abend asked if the pine tree was included. Fairweather said no, only the posted trees were to be removed. She also stated that she is aware that this is a scenic way and has planted other, smaller trees and perennials along the right-of-way. LaLiberte asked if any abutters had filed objections, but none had been received. Fairweather said she had spoken with the Baileys and the Smiths who had seen the postings on the trees and had no objections.

Gary Davis said he had no objections. Removing the trees by the driveway would not change the view to the house and the trees by the road could cause problems if damaged in a storm. Mansfield noted that if permission is granted, it should be made in writing and that the trees not associated with the driveway construction are solely the responsibility of the Tree Warden.

Tice noted that it appears to be a safety issue. Abend asked how the trees would be removed. Fairweather plans to have a professional company do it. Davis noted that the trees on the road may require police detail, especially since they are near the curve in the road. He advised Fairweather to be sure the company has adequate insurance since it is public property and asked that a copy of their Certificate of Insurance be sent to him prior to commencement of the work. Mansfield noted that Sec.3 of Chapt.87 of the General Laws calls for a written permit. He suggested these specifications could be written into the permit.

Duscha moved that the three trees around the driveway be preserved. Hengeveld seconded. The motion failed 2-4 with Duscha and Abend in favor and Yanofsky, Tice, LaLiberte and Hengeveld opposed.

LaLiberte moved to approve the application of Kay Fairweather, requesting tree removal within the right-of-way of School Street. Tice seconded. Motion approved 5-1 with Duscha opposed.

Yanofsky will send permission in writing. Mansfield asked when Fairweather planned to have the trees removed and she replied that the first three should be removed before next spring and the three by the driveway may come down later. She also said that if the tree removal should damage the fieldstone wall, she will rebuild it.

#### **Request for release of performance guarantee for Ice Pond Subdivision**

LaLiberte was recused from this discussion.

Hebb said he received the letter from the Planning Board on July 15th. Yanofsky said the board could reduce the bond, but could not release all of it. Hebb explained that he met with David Ross on site today in order to locate the drill hole in the first bound. Silt had washed over it which is probably why Sleger was unable to locate it. It has now been cleared, and marked with a stake and fluorescent paint. The drain to handle runoff from Lots B and C has been dealt with. The swale has been extended and the preliminary as-built plan was submitted to Mansfield today. The mylars will be submitted as soon as the PB approves it.

Duscha said that the board is unable to act until LandTech reviews the as-built plan. The security account amount is \$65,000 and Alphen's letter noted that the approximate cost for the as-built plan would be \$5,000. Mansfield noted that all survey and drafting work has been done. Duscha expressed a desire to be cautious in case a drastic, unforeseen problem arises. Mansfield said that he spoke with Sleger after receiving the preliminary as-built plan and he said he would review it after he has been notified that the swale has been built.

Hebb asked the board to release all but \$5,000. Duscha preferred to wait until LandTech has reviewed the as-built plan. Yanofsky noted that only the as-built plan and a site walk are needed to complete the project, which is unlikely to cost \$65,000. Duscha thought the applicant could

wait two weeks until the next meeting. Mansfield said that in the past, money had been set aside from the security account to reimburse the town for legal expenses and to make a donation to Cons. Com. in lieu of planting trees. Yanofsky noted that when this issue came up in the past it had been controversial. Mansfield noted that the board may not retain funds to pay for legal fees incurred with this transaction. The board must either reduce the bond or explain why the bond cannot be released. Mansfield located documentation referring to the past agreements. On Sept. 25, 1995 the PB accepted a donation of \$3,000 from the Security Deposit to the Conservation Commission in lieu of a previously required screen planting. On Apr. 11, 1994 a request was made to reduce the security deposit by \$32,000. \$6,000 was reserved in a Legal Expense Contingency account. Yanofsky noted that this amounts to \$14,000 which might be questionable. Mansfield stated that as of July 16, 1997 there was \$65,707.56 in the account.

Abend moved to reduce the bond to \$14,000. Tice seconded. The motion was approved 4-1-1 with Duscha opposed and LaLiberte recused.

Hebb asked how he should handle the \$3,000 for Cons. Com. Abend suggested that it might be easiest to include the \$3,000 with the bond. The condition could be removed from the subdivision plan if Hebb brings \$3,000. Yanofsky asked Mansfield to outline the history of these issues before the next meeting.

**Request for discussion of mechanism to secure performance guarantee for completion of Tall Pines Subdivision prior to release of last 10 lots from covenant (Costello)**

LaLiberte noted that with a tri-party agreement as a performance guarantee, as proposed, if there is a financial problem, this amount would be considered as property of the estate. He recommended that Costello obtain a Letter of Credit (LC) from the bank to the town. Costello agreed to pursue this and will consult with LaLiberte in preparing the letter.

Costello said he would like to complete construction by next Fall.

Mansfield referred to the letter from LandTech dated Feb. 19, 1997 for an estimated cost of completion. Yanofsky asked Costello to return in two weeks to discuss the letter of credit.

Regarding the draft agreement prepared by Rackemann, Sawyer & Brewster, Mansfield suggested filling in the completion date and changing the Board's time frame for making a determination from thirty (30) days to forty-five (45) days.

**Request for discussion of potential amendments to Overlook Drive Common Driveway Special Permit**

Dennis LaBombard, design engineer, submitted the plans along with a list of changes. He had a surveyor prepare an as-built plan to realign the plan to the actual driveway. The driveway is 12 feet longer than the original submittal mainly due to an added curve in the roadway. Boulders

have been placed along the embankment. LaLiberte asked why boulders were used instead of guardrails. Les Bishop said that this is a 3-1 slope and since it banks inward the guardrail was optional. It will be requested that these changes be incorporated into the special permit.

LaBombard explained that the silt basins had been improved and there are metal guardrails at the wetlands crossing. LaLiberte asked if this is being submitted to LandTech and it was determined that it would be. Abend asked if there was a guardrail in the original plan. Bishop said that it had been in the original plan, but was reduced following discussion. Yanofsky asked that Mansfield collect all documentation concerning this site prior to the Public Hearing.

Bishop stated that the pitch is 7.9% and that the boulders are approximately the size of desks. Duscha asked if this had been presented to Cons. Com. and Bishop confirmed that most of these changes were a result of meetings with them. He said that the site has been stabilized with hay bales and that there are no outstanding issues with Cons. Com. Yanofsky asked that Bishop provide a list of the work that needs to be done which he agreed to.

(Board member Epstein arrived)

Bishop confirmed that lot owners have been informed.

Yanofsky asked Mansfield to include the highlights of decisions regarding this property in the next packet sent to the Board. The Public Hearing was scheduled for Aug. 4, 1997 at 7:30 p.m.

Bishop stated that he was willing to install either metal or wooden guardrails. Tice asked if rust colored metal rails could be used. Bishop said he would inquire.

#### **ANR Plan - 430 Baldwin Road, Mary Deacon, applicant**

Ken Harte presented the plans and showed that Mary Deacon owns 11 acres of land. Most of this land will become part of the conservation project. Five of these acres have frontage on Woodridge and Baldwin Road. She is interested in carving a two acre lot out of these 5 acres to sell along with the house on that property. The remaining land abuts land owned by Jonathan Sachs which will be turned over to the Conservation Trust along with the Sachs property. He intends not to allow building. The lot has 308 feet of frontage.

Epstein asked if the PB agrees that the plan is correct when they endorse it. The ANR states that "Parcels A and B are not legal building lots" when in fact they are. Yanofsky wanted to be sure that the ellipses were not required.

Harte explained that the purpose was to sell the house while giving the remaining land to the Trust. Mansfield cited another similar case suggesting that the Board may endorse the plan, even if there are errors. He also suggested the Board add a notation to the plan.

Duscha moved to accept the ANR. Tice seconded. The motion carried 7-0.

**Notice of intent to remove property at 570 West Street from Chapter 61 classification**

Mansfield noted that this land is designated Priority 3 in the Open Space Plan, the same as Pine Meadow. This is the Pannell property off of West Street. There are 45.96 feet of frontage. The P&S agreement is contingent upon approval of 8 building lots.

Yanofsky asked what the PB should look at. Abend suggested that the price of the property seemed inflated since it does not meet the requirements for subdivision. Mansfield was under the impression that Lot 68 had recently been sold and the owner not approached. Yanofsky suggested that the PB consider it as a Chapter 61 and send a note to the selectmen stating that this is not buildable land.

Abend thought it seemed as though someone is prepared to make an offer on one lot and may develop others. Yanofsky suggested sending a note to the Selectmen to point out the issues concerning this property.

Abend asked if this land had access through Acton. Mansfield said it would if a regulation were waived. He also said the board needed to act by Aug. 15, 1997.

Ken Harte of the Land Trust noted that this is an important parcel of land with unique features. He would not like to see it go to a developer, especially since there is little conservation land in this area of Carlisle.

Duscha moved to recommend the purchase of the property. Tice seconded. LaLiberte amended the motion by adding "subject to an inquiry regarding the validity of the purchase price." The motion was approved as amended 7-0.

Abend and Mansfield will draft a letter to the Selectmen regarding this property.

**Request for discussion of potential amendments to Aldershot Lane Common Driveway Special Permit**

Bruce Sandler presented his plan and photos. He said that he filed a notice of intent with Cons. Com. for repaving. The driveway is currently 10 feet wide and with children riding bikes on the road it is dangerous. He would like to repave the circle and widen it by 3 feet. Mansfield asked if Sandler was able to locate a recorded, signed plan, but he only found the Proposed Common Driveway Plan.

Initially Sandler wished to widen the road to 14 feet, but the engineering costs were prohibitive. Instead he would like to widen the circle by 3 feet and pave the center of it also. Duscha thought this would be good for safety purposes. Sandler plans to clear the shoulder. He wanted to know if this would require a change of the Special Permit. It was originally approved in 1981.

Mansfield said he discussed this with Bob Koning and he would prefer to have the entire roadway widened. He also said that Cons. Com. suggested that Sandler simply file a Notice of Determination. Yanofsky noted that there was no approved plan. Mansfield said there is a file for this common driveway, but no decision is filed there. Sandler presented documentation showing the Town Clerk's filing of the approval dated May 4, 1981.

LaLiberte noted that if Sandler only proposes to pave over the circle, then no action is required by the board. Sandler agreed to this.

### **Review of Planning Board's engineering services**

Duscha asked whether documents are reviewed in a timely manner. Mansfield said that some things had come in late. Some of the problems with the Ice Pond and Hunters Run subdivisions were a result of LandTech delays. Slegger told him today that LandTech has just hired a construction inspector.

Abend asked if LandTech charges the town a reduced rate. Some firms charge more for contractors and developers and less for municipalities. Mansfield was not sure, but it appeared to be the same rate whether the town or the applicant paid the bill.

Yanofsky expressed dissatisfaction at LandTech's ability to handle the Planning Board's workload. Mansfield noted that the only time the Planning Board questioned LandTech was during the hiring of Mark Slegger. LaLiberte noted that LT improved their responsiveness when problems were presented to them.

Epstein felt that things became awkward when the Beals and Thomas landscape ideas were presented during the Hunters Run hearing. It would have been easier to have a full service firm with broader capabilities. Abend asked if LT had recommended Beals and Thomas, but they had in fact recommended a larger firm.

Yanofsky suggested that as the Rules and Regs. evolve, the PB's engineering services should also evolve.

Duscha noted that having two firms consult provides a means of checking, but Yanofsky added that this method is expensive.

Abend suggested that LT should be able to contact a landscape architect when needed and work with them. Tice thought the board could consider hiring Beals and Thomas. Abend suggested John Crow in Belmont. It was then agreed that Abend would prepare a list of seven firms along with a form letter requesting those firms to submit their qualifications.

### **Review and discussion of future proposals to amend Zoning Bylaws to permit/encourage Open Space Residential Development**

LaLiberte spoke with Vivian Chaput last week to ask if the PB could have a meeting with the selectmen. She expressed support in moving ahead to make a presentation at Fall Town Meeting, but said that it was likely there would not be a Fall TM. LaLiberte recommended to begin planning for the Spring TM in October or November.

Mansfield alerted the Board to his understanding that there may be five new subdivisions presented to the Board in the near future.

LaLiberte said that Vivian also asked the PB to address the draft Barn Bylaw and review it.

Yanofsky noted that it may benefit the Open Space Bylaw to revise the Rules and Regs. first. She asked if anything needed to be done with the Open Space issue before October. Epstein suggested that he and LaLiberte review the minutes of TM and prepare a list of issues that need to be addressed. In the meantime the board could concentrate on the Rules and Regs. The Scenic Bylaw Rules and Regs. should be discussed as well as the subdivision Rules and Regs.

### **Consideration of proposing amendments to Rules and Regulations**

Yanofsky asked if there was interest in forming a small committee to work on Rules and Regs. She expressed a desire in getting this project done quickly and addressing a broader scope than merely Open Space. She would like to have the preliminary work done in August and be prepared to make the amendments in September. Epstein suggested that one month is not enough time to do a comprehensive revision. Instead, the Board should first focus on specific issues and follow up with a more comprehensive review later.

Yanofsky suggested that each board member submit a list of issues at the next meeting. LaLiberte preferred to have a working group present a list which would circulate through the Board allowing each member to add their suggestions. Epstein noted that in order to expedite the process, all should submit their ideas and the working group can weed out duplicates and create a comprehensive list. Each member should be thinking about priorities. Yanofsky suggested holding a separate meeting in August devoted to this issue. Duscha preferred to concentrate on three issues. Epstein advised the Board to write down all their ideas when going through the Rules and Regs., but to focus on the most important issues first. Mansfield noted that a brief critique of the Rules and Regs. by Gregor McGregor had been enclosed in the most recent packet mailed to the Board.

Yanofsky asked Epstein to review the Calendar and prepare a schedule of when meetings and Public Hearings should be scheduled. The Open Meeting Law requires 48 hours notice to be posted in Town Hall.



Epstein asked all Board members to have their lists prepared and submitted to Mansfield by August 1st so that they may distributed to the Board prior to the August 4th meeting.

Abend asked if the Board would be hiring a land use lawyer to review the Rules and Regs., and Yanofsky replied that the Board would first need to see if money was available. Mansfield said that he would find out on Wednesday if the Board made the first cut for receiving the Municipal Incentives Grant. Epstein recommended that the lists of suggestions be reviewed at the next meeting and then it will be decided when future meetings should be scheduled. Yanofsky added that this should be an annual process.

Epstein asked if Rich Colman should be contacted now regarding the Open Space Bylaw and Yanofsky explained that he was eager to become involved in this issue.

**ANR Plan - Hutchins Road, Tall Pines Realty Trust, applicant**

Hengeveld was recused from this discussion.

Mansfield explained the ANR, noting that Joe March had presented it at the last meeting.

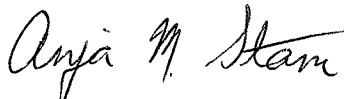
Abend **moved to approve the ANR.** LaLiberte seconded. The ANR was approved 6-0-1 with Hengeveld recused.

**Other Business**

Mansfield noted that the 5'x12', historical, PB table had been located and will be brought in soon. He also advised members that they should give their input to the Selectmen regarding a position description for the new Town Administrator by tomorrow if they were interested in doing so.

Duscha **moved to adjourn.** Abend seconded. Meeting adjourned at 10:25 p.m.

Respectfully submitted,



Anja M. Stam  
Recording Secretary